

Official Form 420A (Notice of Motion or Objection) (12/16)

**United States Bankruptcy Court
WESTERN DISTRICT OF WISCONSIN (MADISON)**

In re)	
Mark D. Ward)	Case No. 3-19-12735-cjf
Amy J. Ward)	
)	
Debtors)	
)	Chapter 13
Address)	
<u>416 Herman Street, Arena, WI 53503</u>)	
)	
Last four digits of Social Security or Individual Tax-payer)	Judge Catherine J. Furay
(ITIN) No(s), (if any): <u>1626; 1142</u>)	

NOTICE OF MOTION FOR RELIEF FROM THE AUTOMATIC STAY

HOME POINT FINANCIAL CORPORATION the current mortgagee of record, its successors, servicing agents and/or assignees (hereinafter collectively the “Movant”), has filed papers with the court for an order for relief from the automatic stay.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one).

If you do not want the court to grant the relief sought in the motion, or if you want the court to consider your views on the motion, then or on before **05/06/2022**, you or your attorney must:

File with the court a written objection to the motion and a request for a hearing at:

Clerk, U.S. Bankruptcy Court
Western District of Wisconsin
120 North Henry Street, Room 340
Madison, Wisconsin 53703-2559

If you mail your request and objection to the court for filing, you must mail it early enough so the court will **receive** it before the date stated above.

You must also send a copy to:

Matthew Comella
Codilis, Moody & Circelli, P.C.
15W030 North Frontage Road, Suite 200
Burr Ridge, IL 60527

Mark Harring
Chapter 13 Trustee
131 W. Wilson Street, Suite 1000
Madison, WI 53703-3260

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Date: April 22, 2022

Signature: /s/ Matthew Comella

Shawn R. Hillmann, WI Bar No. 1037005
Rachael A. Stokas, MO Bar No. 61282
Peter C. Bastianen, IL Bar No. 6244346
Matthew Comella, WI Bar No. 1096303
Joel P. Fonferko, IL Bar No. 6276490
Codi C. Gratz, WI Bar No. 1086257
matthew.comella@codilis.com
Codilis, Moody & Circelli, P.C.
15W030 North Frontage Road, Suite 200
Burr Ridge, IL 60527
(414) 775-7700 Phone
(630) 654-9946 Fax
File #50-22-00462

NOTE: This law firm is a debt collector.

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WISCONSIN (MADISON)**

IN RE:) Chapter: 13
Mark D. Ward)
Amy J. Ward) Case No. 3-19-12735-cjf
) Debtors.)
) Judge Catherine J. Furay

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

NOW COMES HOME POINT FINANCIAL CORPORATION (hereinafter “Movant”), by and through its attorneys, Codilis, Moody & Circelli, P.C., and moves this Honorable Court pursuant to 11 U.S.C §362(d) for an Order granting Movant relief from the automatic stay, and in support thereof states as follows:

1. The Debtors are indebted to Movant for which the Movant claims a valid security interest in the property commonly known as 416 Herman Street, Arena, WI 53503 (hereinafter “Subject Property”). A copy of the mortgage and note are attached hereto and their contents are incorporated herein by reference;

2. Enforcement of this security interest has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code upon Debtors’ filing of this petition on 8/14/2019;

3. Movant is entitled to relief from the automatic stay under 11 U.S.C. §362(d) for the following reasons:

- a. As of 04/05/2022, the Debtors are past due for the 3/1/2022 post-petition payment and all amounts coming due since that date. Any payments received after this date may not be reflected in this default;
- b. As of 04/05/2022, the post-petition monthly mortgage payments have not been received as required by the terms of the plan in this case and the Movant’s records reflect that the following post-petition arrearage has accrued:

# of Missed Mortgage Payments	From	To	Monthly Payment Amount	Total Amount Missed
2	3/1/2022	4/1/2022	\$1,646.84	\$3,293.68
Less post-petition partial payments (suspense balance)				(\$1,130.35)
POST-PETITION ARREARAGE				\$2,163.33

- c. As of 04/05/2022, the total post-petition default through and including 4/1/2022 is \$3,401.33 which includes a suspense credit of \$1,130.35. This amount includes post-petition attorney fees and costs in the amount of \$1,238.00. Any payments received after this date may not be reflected in this default;
- d. On 05/01/2022, the default will increase to \$5,048.17 and will continue to increase as additional amounts become due;

4. That the estimated fair market value of the property per Debtors' schedules was approximately \$191,700.00;

5. As of 04/05/2022, the estimated payoff amount was \$200,655.10;

6. To the best of Movant's knowledge, no non-exempt equity exists in the subject property or any equity that does exist is so insubstantial as to be of little or no benefit or burdensome to the estate. The lack of equity in the property, which is unnecessary for an effective reorganization, entitles the Movant to relief from the automatic stay under Section 362(d)(2) of the Bankruptcy Code;

7. Movant has incurred attorney fees and/or costs in connection with this bankruptcy proceeding:

\$1,050.00 for Preparation of Notice and Motion for Relief from the
Automatic Stay, and prosecution of same
\$188.00 for Court filing fee

8. The Court has authority to order that Rule 4001(a)(3) is not applicable to the order entered in granting this motion, and Movant requests this Court so order;

WHEREFORE, Movant prays this Court enter an Order pursuant to 11 U.S.C. §362(d) for an Order modifying the automatic stay as to Movant, that Movant's legal fees and/or costs associated with this motion be approved, that any order entered pursuant to this motion be effective immediately upon its entry and for such other relief as may be just and equitable.

Dated April 22, 2022.

Respectfully Submitted,

Codilis, Moody & Circelli, P.C.

By: /s/ Matthew Comella
Attorney for Movant

Shawn R. Hillmann, WI Bar No. 1037005
Rachael A. Stokas, MO Bar No. 61282
Peter C. Bastianen, IL Bar No. 6244346
Matthew Comella, WI Bar No. 1096303
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)
Debtors.) Judge Catherine J. Furay

PROOF OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice and Motion upon the parties listed below, as to the Trustee, U.S. Trustee and Debtor's Attorney via electronic notice on April 22, 2022, and as to the Debtors by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on April 22, 2022.

Mark Haring, Chapter 13 Trustee, 131 W. Wilson Street, Suite 1000, Madison, WI 53703-3260
by electronic notice through ECF

Mark D Ward, Amy J Ward, Debtors, 416 Herman Street, Arena, WI 53503

Zachary J. Kluck, Attorney for Debtors, 2000 Engel St., Suite 101, Madison, WI 53713-4822
by electronic notice through ECF

U.S. Trustee, U.S. Trustee's Office, 780 Regent Street, Suite 304, Madison, WI 53715
by electronic notice through ECF

Codilis, Moody & Circelli, P.C.

By: /s/ Matthew Comella
Attorney for Movant

Shawn R. Hillmann, WI Bar No. 1037005

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